

6 09/821,962 LUC-159/Posthuma 28

Remarks

Entry of the above-noted amendments and favorable reconsideration of the application are respectfully requested. Claims 1, 5-10, 15, 16, 19-30, 42 and 44-46 are pending.

Applicant's arguments presented below focus on certain patentable differences between the invention as claimed and the applied references. However, it is not to be inferred that the failure to argue all differences between the claimed subject matter and the applied references constitutes acceptance of assertions made in the Office Action of alleged similarities between elements of the claimed subject matter and the applied references.

Claim Objections:

All of the objections to the claims have been addressed in the amendments to the claims and are believed to be overcome.

35 U.S.C. 103 Rejections:

Claims 1 and 42 were rejected under 35 U.S.C. 103 as being unpatentable over Jenness (US 6,404,774) in view of Seazholtz (US 6,424,636).

Claims 1-3, 5,6,15, 19-21, 223-25, 27-30, 42 and 43 were rejected under 35 U.S.C. 103 as being unpatentable over Valentine (US 6,356,547) in view of Seazholtz.

Claim 1

Claim 1 has been amended to incorporate the limitations of previously presented claims 2 and 3. Since claims 2 and 3 were rejected under 35 U.S.C. 103 as being unpatentable over Valentine in view of Seazholtz, this is the appropriate rejection now applicable to claim 1.

MPEP §706.02(j) states: "To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." (Emphasis added.)

Claim 1 recites a line card for a telecommunication system in which a multiple mode circuit is installed in equipment at a central office that provides at least one of POTS service and ISDN service on a single subscriber line to a subscriber's residence as a single twisted pair of wires while concurrently providing one of a plurality of types of xDSL telecommunication service on said single subscriber line. The multiple mode circuit including a controller that receives the instructions from an external device with regard to the plurality of telecommunication services and configures the multiple mode circuit to operate said telecommunication services. The external device comprises one of a broad band element management system, a PSTN switch, and a PSTN maintenance center. The controller changes in response to a command received from a subscriber from a first type of xDSL telecommunication service to a second type of xDSL telecommunication service during an ongoing communication session of a subscriber on the single subscriber line with another party. Claim 1 further recites the limitations of previously presented claims 2 and 3.

In the Office Action, Valentine is alleged to teach supplying ISDN or POTS concurrently with a type of xDSL communication service on a single subscriber line, with reference being made to FIG. 3. As explained in column 7, lines 8-22, multiple subscriber line pairs 102 are utilized to carry different subscriber communication services. Further, the DLC 42 is explained to use all the spectrum on a single copper twisted pair based on a single based on a single communication protocol selected for use; see column 5, lines 14-23. The example described in column 6, starting at line 15, explains that a subscriber may want to change from POTS communication service, i.e. only POTS service, to a different form of communication service such as xDSL, i.e. only xDSL service. It is believed that one of ordinary skill in the art will understand the

teachings of Valentine as describing the provision of only one communication form of service at a time on the subscriber line. The DLC can be configured to support different types of communications services for the subscriber, but different communication services are not concurrently provided on a single subscriber line. In view of the explicit example offered in Valentine, which is consistent with applicant's interpretation, one of ordinary skill in the art would understand that Valentine teaches only one communication mode/service is offered to the subscriber at a given time.

Reference is made in the Office Action to different communication services being provided "concurrently/parallel over a multiplexed single subscriber Loop/trunk 29". Element 29 is shown in more detail in FIG. 3 as different lines 102, each of which support a different communication mode. It is unclear based on the explicit teachings of Valentine of how element 29 is consistent with lines 102. However, it is made clear in Valentine that only one communication mode at a time is provided to the subscriber as explained above. Withdrawal of the rejection of claim 1 in view of the failure of Valentine to teach the alleged elements discussed above is requested.

In section 10 on page 21 of the Office Action, "Response to Arguments", a response is made to applicant's argument regarding the DSP of Valentine not being able to be changed during an ongoing subscriber communication session. A substantial portion of text is quoted. This text has been carefully read and reconsidered. However, nothing in the quoted text is contrary to the position by applicant explained in the previous communication, i.e. changing the algorithm stored in memory space 68 used to control DSP 66 requires the DSP to discontinue the ongoing service during the time of the memory change. This is analogous to changing an operating system of the computer from one type, e.g. Microsoft Windows, to another type, e.g. Unix. Assuming that the computer is running Windows, the ongoing operation of applications running on the computer are required to be discontinued in order for a new replacement operating system, Unix, to be loaded.

Following the quotation of text on page 22 of the Office Action it is stated, "in view of the above, it is clear that Valentine changing its DSP programming "dynamically" without "frozen"

(i.e. during ongoing session operation) or without "changing hardware or software" in order to support different xDSL service." The conclusion that the service controlling algorithm that provides a first service can be changed to another algorithm while maintaining the ongoing first service is simply not supported by the explicit teachings of Valentine. As read in context by one of ordinary skill in the art, the reference to "dynamic" changing of the algorithms merely refers to the ability to reload the memory with new algorithms as a software download without having to perform a manual replacement operation. Nothing associated with the word dynamic requires an explicit or implicit understanding that a continuing service operation be sustained. Similarly, the reference to "frozen" makes reference to the prior art which was frozen in the sense that new line cards had to be used to replace an existing line card if a change in communication services was to be made. With regard to the phrase "eliminates the need to make physical hardware changes to the hardware or software in the DLC", this refers to the ability to download new algorithms without having to alter the actual physical hardware or the operational management software of the DLC. That is, the operational management software of the DLC need not be changed, however the communication protocol algorithm controlling the mode of communication will be downloaded in order to effectuate a new communication mode. Applicant's explanation as provided in this paragraph is consistent with the totality of the teachings of Valentine as would be viewed by one of ordinary skill in the art. None of the words or phrases emphasized in the Office Action explicitly or implicitly supports the conclusion drawn in the Office Action. Therefore, the teachings sought to be attributed to Valentine are simply not taught in the document, and hence the reliance on Valentine for the subject matter is not properly supported.

Seazholtz addresses a variable mode transmission system. Of course, Valentine also teaches that different service modes can also be provided to the subscriber, subject to the limitations explained above. Thus, one of ordinary skill in the art would have seen no need to consider combining the teachings of Seazholtz into Valentine since Valentine already supports different services.

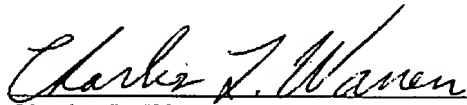
10 09/821,962 LUC-159/Posthuma 28

Claim 42

Independent method claim 42 is allowable for similar reasons explained with regard to claim 1.

In view of the above amendments and remarks, allowance of the subject application is respectfully requested. If a telephone conference would be of assistance in advancing the prosecution of this application, the Examiner is invited to call applicants' attorney.

Respectfully submitted,



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